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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NEVADA,

Defendants.

Case No. 3:25-cv-00004

**JOINT MOTION TO DISMISS AND
RETAIN JURISDICTION**

JOINT MOTION TO DISMISS AND RETAIN JURISDICTION

Plaintiff, the United States of America and Defendant, the State of Nevada, hereby jointly
move this court for entry of an Order dismissing this action pursuant to Rule 41(a)(2) of the

1 Federal Rules of Civil Procedure, incorporating the terms of the Agreement (Attachment A), and
2 retaining jurisdiction to enforce the Agreement in accordance with its terms for its duration. The
3 Parties have attached a proposed Order as Attachment B.

4 This 3rd day of January, 2025.
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1 Respectfully submitted,

2 FOR THE UNITED STATES:

3 KRISTEN CLARKE
4 Assistant Attorney General
5 Civil Rights Division

6 REGAN RUSH
7 Chief, Special Litigation Section

8 DEENA FOX
9 Deputy Chief, Special Litigation Section

10 /s/ Beth Kurtz
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12 HALEY VAN EREM
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22 AARON FORD
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24 /s/ Sharon L. Benson
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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 THE STATE OF NEVADA,

7 Defendants.

Case No. 3:25-cv-00004

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
JOINT MOTION TO DISMISS AND
RETAIN JURISDICTION**

8 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF JOINT MOTION**
9 **TO DISMISS AND RETAIN JURISDICTION**

- 10 1. On October 4, 2022, the United States issued a report notifying the State of its findings
11 that the State does not comply with Title II of the Americans with Disabilities Act
12 (ADA), as interpreted in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999), by
13 failing to provide services to children with behavioral health disabilities in the most
14 integrated setting appropriate to their needs. The United States found that these children
15 were being unnecessarily institutionalized in hospitals and residential treatment facilities
16 due to a lack of sufficient community-based services.
- 17 2. On January 2, 2025, Plaintiff, the United States of America and Defendant, the State of
18 Nevada (collectively “the Parties”) entered into an Agreement (Attachment A).
- 19 3. The Agreement reflects the Parties’ shared commitment to full compliance with the
20 ADA.
- 21 4. The purpose of the Agreement is to remedy the identified alleged ADA violation by
22 strengthening the system of community-based services to effectively engage families in
23 service planning and ensure coordinated and family-centered care. The system will
24

1 provide children who have been institutionalized or are at serious risk of
2 institutionalization with flexible services and supports that are of sufficient intensity,
3 duration, and quality to meet their behavioral health needs. The Agreement is intended to
4 ensure that such children receive sufficient services to prevent unnecessary
5 institutionalization and live at home with family (or foster or kinship care family, where
6 applicable), support success in school, enhance their community living skills and
7 resiliency, and contribute toward the development of the skills to function independently
8 upon reaching adulthood.

9 5. In consideration of, and consistent with the terms of the Agreement, the Parties jointly
10 move this Court for entry of an Order dismissing this action pursuant to Rule 41(a)(2) of
11 the Federal Rules of Civil Procedure, incorporating the terms of the Agreement, and
12 retaining jurisdiction to enforce the Agreement in accordance with its terms for its
13 duration.

14 6. A federal court may retain jurisdiction in this manner. *See Kokkonen v. Guardian Life*
15 *Ins. Co. of Am.*, 511 U.S. 375, 381 (1994) (recognizing that a federal district court may
16 retain jurisdiction to enforce a “dismissal-producing settlement agreement” in its order);
17 *Alvarado v. Table Mountain Rancheria*, 509 F.3d 1008, 1017 (9th Cir. 2007) (“[A]
18 federal court has jurisdiction to enforce a settlement agreement in a dismissed case when
19 the dismissal order incorporates the settlement terms, or the court has retained
20 jurisdiction over the settlement contract.”); *see also In re Volkswagen “Clean Diesel”*
21 *Mktg.*, 975 F.3d 770, 775 (9th Cir. 2020); *Kang v. Harrison*, 789 Fed. Appx. 68, 69 (9th
22 Cir. 2020).

23 7. A proposed order for such dismissal is attached. (Attachment B).
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Respectfully submitted,

FOR THE UNITED STATES:

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Assistant Attorney General
Civil Rights Division

REGAN RUSH
Chief, Special Litigation Section

DEENA FOX
Deputy Chief, Special Litigation Section

/s/ Beth Kurtz
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